IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION Nos: 11621 of 1994 and 7840 of 1995

W.P.No.11621 of 1994

Between:

M/s. Uni Metal Alloys Ltd., Rep. Personnel Manager.
315, Swapnalok, 92/93 S.D.Road,
Secunderabad.

..... PETITIONER

AND

1 Addl. Industrial Tribunal-cum-Addl.Labour Court,
Chandravihar Building, OPP: Gandhi Bhavan,
Hyderabad.
2 Suraj Paul, C/o. Mohd. Ghouse Moinuddin.
9-81/3, Panduranganagar, Sanathnagar Post,
Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Direction, Order or a Writ particularly one in the nature of Writ of Certiorari after calling for records in I.D.No.175/93 dated 15/11/1993 on the file of Addl. Industrial Tribunal-cum-Additional Labour Court, Hyderabad and quash the same.

Counsel for the Petitioner:MR.S.RAVINDRANATH

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2 :Mr. A.KRISHNA RAO

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W.P. No.7840 of 1995

Between:

Suraj Paul, C/o. Mohd. Ghouse Moinuddin.
9-81/3, Panduranganagar, Sanathnagar Post,
Hyderabad.

..... PETITIONER

AND

1 Addl. Industrial Tribunal-cum-Addl.Labour Court,
Chandravihar Building, OPP: Gandhi Bhavan,
Hyderabad.
2 M/s. Uni Metal Alloys Ltd., Rep. Personnel Manager.
315, Swapnalok, 92/93 S.D.Road,
Secunderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to grant the relief for continuity of service with full back wages and all attendant benefits against the relief granted in I.D.No.175 of 1993 by way of award dated 15-11-1993 by the Additional Industrial Tribunal Cum Additional Labour Court, Hyderabad.

Counsel for the Petitioner:MR.A.KRISHNA RAO

Counsel for the Respondent No.1 : GP FOR LABOUR

Counsel for the Respondent No.2: MR.S.RAVINDRANATH

The Court made the following :

COMMON ORDER:

Since the issue involved in both the writ petitions is one and the same, they are disposed of by this common order.

2. W.P.No.11621 of 1994 was filed by the Management, while W.P.No.7840 of 1995 was filed by the workman.

3. The workman, who was working under the management of M/s Uni Metal Alloys Limited, Secunderabad, was on E.S.I. leave from 2-9-1988 to 10-9-1988. While so, the management relieved the workman from service, alleging that the resignation tendered by him was accepted. Therefore, a dispute was raised by the workman. Thereafter, the matter was adjudicated by the Tribunal. On adjudication, it was found that the workman is entitled for re-employment. Accordingly, an award was passed on 15-11-1993, directing the management to reinstate the workman into service as a fresh candidate with last pay drawn. Against the said order, the management has filed W.P.No.11621 of 1994. Insofar as it denied the back wages, the workman has filed W.P.No.7840 of 1995.

4. Heard the learned counsel for the management and learned counsel for the workman.

5. The Tribunal, as a matter of fact, found that the workman is entitled for reinstatement, holding that the leave, which he has applied, was not unauthorized. Under these circumstances, granting reinstatement as a fresh candidate cannot be said to be illegal or contrary to law. So also, the case of the workman that he should

be given full back wages from the date of disengagement, is also not sustainable. As the Tribunal exercised the discretion and granted the relief, which cannot be said to be illegal or contrary to law, I do not find any error in the award of the Tribunal.

6. Hence, both the writ petitions are dismissed. No costs.

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(G.BIKSHAPATHY,J)

Dated:05-08-2004

GJ

To

1 The Addl.Industrial Tribunal-cum-Addl.Labour Court,
Chandravihar Building, OPP: Gandhi Bhavan,
Hyderabad.

2 Two C.Cs. to the Government Pleader for Labour, High Court Buildings, Hyderabad (OUT).

3 Two C.D. copies.